

## **COSTS INVOLVED & GENERAL INFORMATION ON ACTING AS A PRO SE LITIGANT**

### **Petition for Appointment of Guardian of the Person and Property**

You have elected to act as your own attorney (pro se) by filing the petition for guardianship yourself. Our office wants you to be completely aware of possible costs that will be involved.

The filing fee for this petition is \$115.00 in addition to a \$2.00 per page scanning fee. This fee must be paid at the time your petition is filed with our office. If you choose to write a check, make it payable to "Register in Chancery."

A Delaware lawyer will be appointed by the Court to act as the attorney ad litem. This attorney will represent the alleged disabled person. The attorney will investigate and respond to the petition you are about to file. There will be costs for this attorney ad litem. The Court will award the attorney ad litem a reasonable fee for his work on behalf of the alleged disabled person, and will decide which party is responsible for payment of the fee. For uncontested cases, the fee is usually between \$300.00 to \$750.00. **AS THE PETITIONER, YOU MAY BE RESPONSIBLE FOR THE FEE OF THE ATTORNEY AD LITEM.**

You will be contacted by the Court once the attorney ad litem has been appointed to inform you when the court hearing will be held. Your hearing will be held in the New Castle County Courthouse, on the twelfth floor in Courtroom D. Most hearings will be scheduled to begin at 11:30 a.m.; we suggest you arrive at least fifteen (15) minutes early. Please be advised that you will be unable to bring a cell phone into the court building. When you arrive, you will need to check in with the Court Clerk and then take your seat. When your case is called (i.e. "In the Matter of John Doe, a disabled person") you will need to step to the podium and state your case to the Judge. The Judge (called a "Master" in Chancery Court) will have a copy of your petition, and you will not be required to bring any additional documents. Should your petition to become guardian be granted, you will receive additional documents and information from the Court.

If you should have any questions, please contact the Court  
at (302) 255-0544



NEW CASTLE COUNTY  
COURTHOUSE  
500 N. KING STREET  
SUITE 1551  
WILMINGTON, DE 19801

OFFICE OF THE REGISTER IN CHANCERY  
COURT OF CHANCERY  
OF THE  
STATE OF DELAWARE

302-255-0544  
FAX 302-255-2213

March 9, 2009

Guardians & Co-Guardians

Re: Guardianship Volunteers

CM #: All disabled guardianship cases

Dear Guardians & Co-Guardians:

The Court of Chancery is creating a volunteer program designed to monitor individuals who have been placed under guardianship and whose care is the responsibility of court-appointed guardians. This important monitoring function enables the court to have first-hand information about people for whom the court has ultimate responsibility. The Court Volunteer is assigned a case, given necessary information about the case, and makes an appointment to meet with the guardian and ward. After the visit, the volunteer fills out a report indicating the status of the ward and may make recommendations for action. The volunteer's report is reviewed by court staff to determine if further action is necessary. The volunteer is considered a member of the Court and should be treated accordingly.

We are pleased to announce the beginning of such an important program that is designed specifically to ensure the well-being of all persons subject to guardianship in the Court of Chancery. Our wards are very important and they deserve every right and protection we can provide them. You should expect to be contacted in the future by one of our volunteers and your cooperation with scheduling meeting times with these volunteers is greatly appreciated. Thank you in advance for your time and effort. Together we will provide the best care possible for all of our wards.

Sincerely,

Sherri J. Harmer  
Court of Chancery  
Guardianship Monitoring Program Director  
(302)-358-0782  
Statewide



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

Alleged disabled person/Minor: \_\_\_\_\_

**AFFIDAVIT OF PETITIONER'S HISTORY**

- 1) Have you ever declared bankruptcy?  
If so, when?  
If so, what type?
  
- 2) Have you ever been convicted of a misdemeanor?  
If so, describe which misdemeanor, when and in what jurisdiction you were convicted (i.e., State, County and Police Department).
  
- 3) Have you ever been convicted of a felony?  
If so, describe which felony, when and in what jurisdiction you were convicted (i.e., State, County and Police Department).

- 4) Have you ever been found guilty of an offense by a court martial?  
If so, describe which offense and when you were found guilty.
- 5) Do you give the State of Delaware permission to conduct a criminal background check on you at any time during the consideration of your petition for guardianship and, if granted, at any time during the period you are a guardian?

I solemnly swear and affirm under penalty of law that the statements and answers above are true to the best of my knowledge.

\_\_\_\_\_  
Signature

SWORN TO AND SUBSCRIBED before me on this date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public or Clerk of the Court

3. Who is paying the alleged disabled person's expenses AND out of what funds?

4. The married status of the alleged disabled person is: (Check one)  
☐ Single      ☐ Married      ☐ Divorce      ☐ Widowed
5. The next of kin of the alleged disabled person are: [The next of kin is/are the person(s) who would be entitled to inherit the alleged disabled person's estate if the alleged disabled person died without having a will]: (Complete the table below with respect to next of kin.)

NEXT OF KIN NAME	RELATIONSHIP TO ALLEGED DISABLED PERSON	PHONE NUMBER AND ADDRESS OF NEXT OF KIN	NEXT OF KIN'S AGE

6. The alleged disabled person is believed to have made a Will that is located at \_\_\_\_\_  
\_\_\_\_\_ in the custody of \_\_\_\_\_  
address where will can be found possession of whom
7. Has the alleged disabled person ever appointed a Power of Attorney? ☐ YES ☐ NO  
If "YES", name of the Power of Attorney: \_\_\_\_\_
8. Has the alleged disabled person been represented by a Delaware attorney within 2 years of filing this Petition? ☐ YES ☐ NO  
If "YES" briefly explain and include the years of service: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Has the alleged disabled person ever been a member of the military? ☐ YES ☐ NO

10. In detailed information, explain why it is necessary for the Court to grant you Guardianship.

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11. In the opinion of the Petitioner, will notifying the alleged disabled person that this Petition is being filed, likely result in harm to the alleged disabled person's health? (Check one)  
☐ YES ☐ NO

12. List ALL alleged disabled person's assets: (Attach additional pages if necessary.)

PROPERTY	ESTIMATED VALUE	RETAIL VALUE	IF OWNED JOINTLY NAME AND ADDRESS OF JOINT OWNER
Cash			
Bank accounts			
Stocks			
Bonds			
Mutual funds			
Securities			
Options			
Annuities			
Home/real estate			
Other real estate			
Motor vehicles/automobile(s)			
Other vehicles			
Business			
Other valuable property (except ordinary household furnishings and clothes)			
Life insurance policy amount			
Other:			
Other:			

13. List ALL believed current sources of income for the alleged disabled person: (Attach additional sheets if necessary).

BENEFIT OR SOURCE OF INCOME	AMOUNT	WHEN RECEIVED	HOW OFTEN RECEIVED (one time or regular)
Business, profession or self-employment			
Rent payments			
Interest			
Dividends from stocks or bonds			
Qualified and/or non-qualified pension and/or retirement plan			
Social security retirement			
Social security disability			
VA benefits			
Federal pension (CSRS or FERS)			
Disability or private disability			
Military pension			
IRA			
Any other annuity payments			
Bank account interest			
Gifts			
Other:			
Other:			

14. List ALL debts and monthly expenses of the alleged disabled person: (Attach additional pages if necessary.)

DESCRIPTION OF DEBTS AND MONTHLY EXPENSES, BILLS	TOTAL DEBT	MONTHLY PAYMENT
Mortgage (taxes, insurance and escrow) or Rent		
Water		
Sewer		
Electric		
Gas		
Oil		
Garbage		
Cable television		
Telephone		
Household items		
Household maintenance and repairs (list)		
Item: _____		
Item: _____		
Groceries		
Clothing		



DESCRIPTION OF DEBTS AND MONTHLY EXPENSES, BILLS (cont.)	TOTAL DEBT (cont.)	MONTHLY PAYMENT (cont.)
Health insurance (COBRA)		
Medications		
Health care		
Other out-of-pocket medical and dental expenses for self		
Medical and dental expenses for dependents		
Laundry and dry cleaning		
Cosmetics and toiletries		
Hobbies		
Barber and hairdresser		
Newspaper, magazine subscriptions		
Charitable and/or religious donations		
Vacation		
Entertainment and miscellaneous		
Transportation other than automobile		
Automobile Monthly payment: Repairs and maintenance: Insurance: Gasoline:		
Life insurance payment		
Other:		
Other:		

15. Check **ONLY** the statement(s) below that applies to your situation (the one that is true). If both statements are true, check both boxes.

- ☐ The alleged disabled person is **UNABLE TO PROPERLY MANAGE AND CARE FOR HIS/HER PROPERTY** and, as a consequence thereof, **IS IN DANGER OF DISSIPATING OR LOSING SUCH PROPERTY** by becoming the victim of designing person(s).
- ☐ The alleged disabled person is **UNABLE TO PROPERLY MANAGE AND CARE FOR HIS/HER PERSON** and, as a consequence thereof, **IS IN DANGER OF SUBSTANTIALLY ENDANGERING HIS/HER OWN HEALTH** or **BECOMING SUBJECT TO ABUSE** by other person(s).

16. **ALL** of the following statements must be true before the Court of Chancery will consider this Petition. Check **ALL** the following statements to acknowledge they are true:

- ☐ **THERE IS CURRENTLY NO GUARDIAN** for the Person **OR** the Property of the alleged disabled person.
- ☐ The alleged disabled person is domiciled in the State of Delaware.

☐ **ATTACHED** is the medical report of:  
Name of attending doctor/physician of alleged disabled person: \_\_\_\_\_  
Doctor/physician's office address: \_\_\_\_\_  
\_\_\_\_\_  
Doctor/physician's telephone no.: \_\_\_\_\_

☐ Petitioner consents to the Register in Chancery of the Court being his/her agent for acceptance of service on behalf of the Petitioner as to any claim arising out of the Guardianship if, by reason of the Guardian's absence from this State, he/she cannot be personally served.

**WHEREFORE**, Petitioner respectfully requests that:

- a. This Court appoint him/her as Guardian of: (check all that apply):
- ☐ Guardian of the Property of the alleged disabled person.  
☐ Guardian of the Person of the alleged disabled person.
- b. He/she be permitted to serve as Guardian without the necessity of posting surety on the bond.
- c. A Preliminary Order be entered to schedule a Hearing and to notify interested parties.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Petitioner's Signature

**SWORN TO AND SUBSCRIBED** before me on this date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public or Clerk of the Court

# COURT OF CHANCERY

## Information Needed on Civil Miscellaneous Filings

### IN THE MATTER OF:

\_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C.M.# \_\_\_\_\_

Social Security#: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Guardian:  
\_\_\_\_\_

Social Security#: \_\_\_\_\_

Drivers License#: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Current Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Home Phone#: \_\_\_\_\_

Work Phone#: \_\_\_\_\_

Email: \_\_\_\_\_

Co-Guardian  
\_\_\_\_\_

Social Security#: \_\_\_\_\_

Drivers License#: \_\_\_\_\_

Date Of Birth: \_\_\_\_\_

Current Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Home Phone #: \_\_\_\_\_

Work Phone #: \_\_\_\_\_

Email: \_\_\_\_\_

## PHYSICIAN'S AFFIDAVIT

NOTE: This affidavit will be used in a legal proceeding to appoint a guardian for the patient named below. The information it contains must be based on your personal examination of the patient. Thank you for your concern and cooperation.

PATIENT'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_ located at \_\_\_\_\_  
(provider's name) (address)

\_\_\_\_\_  
(telephone number)

I am licensed to practice in the United States in the following states:

\_\_\_\_\_.

I am board Certified in \_\_\_\_\_.

This history of my involvement with this patient is the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I personally examined \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.  
(Patient's Name)

The examination lasted approximately \_\_\_\_\_.  
(time)

I performed or ordered the following tests: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Based on tests and my examination of this patient, it is my professional opinion that s/he

☐ **does not have** a disability that interferes with the ability to make or communicate responsible decisions regarding health care, food, clothing, shelter, or administration of property.

☐ **does have** a disability that interferes with the ability to make or communicate responsible decisions regarding health care, food, clothing, shelter, or administration of property.

The particulars of the disability are as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The patient is unable to perform the following functions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ In my opinion, the patient **does have** sufficient mental capacity to understand the nature of guardianship and **can** consent to the appointment of a guardian.

☐ In my opinion, the patient **does not have** sufficient mental capacity to understand the nature of guardianship and **cannot** consent to the appointment of a guardian.

**I solemnly swear and affirm under the penalties of perjury and upon personal knowledge that the contents of this petition are true.**

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Provider's Signature*

\_\_\_\_\_  
*Printed Name*

**STATE OF DELAWARE :**

**COUNTY OF \_\_\_\_\_ :**

**SWORN TO AND SUBSCRIBED** before me this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the Matter of:

C.M.# \_\_\_\_\_

AN ALLEGED DISABLED PERSON

PRELIMINARY ORDER

AND NOW, TO WIT, on this date \_\_\_\_\_, the Petition for the Appointment of a Guardian of (check all that applies): ☐ the Person and/or ☐ the Property of \_\_\_\_\_ hereinafter called "alleged disabled person", filed in this matter having been read and duly considered by the Court,

NOW, THEREFORE, IT IS ORDERED THAT:

1. A Hearing shall be held at the Court of Chancery in \_\_\_\_\_  
County, Delaware on Thursday, 20\_\_\_\_ at 11:30 a.m. to  
determine if the Petitioner should be appointed the Guardian of the Person and/or  
Property of the alleged disabled person.
2. \_\_\_\_\_, Esquire is appointed attorney *ad litem* for  
the alleged disabled person.

3. The Court shall issue notice to the attorney *ad litem* for the alleged disabled person at least ten (10) days before the Hearing date pursuant to Chancery Court Rule 176(c) unless the appointed attorney *ad litem* files a Waiver of Service upon notification of the appointment.
4. The attorney *ad litem* shall give actual notice of the Petition to the alleged disabled person pursuant to Chancery Court Rule 176(a) unless the Physician's Affidavit says it would be detrimental or meaningless to give notice.
5. The attorney *ad litem* shall file a report with the Court before noon on this date                      leave blank.
6. Pursuant to the preparation of the report referenced in paragraph "5" of this Order:
  - a. All physicians, hospitals and other healthcare providers covered under the Privacy Standards of the Health Insurance Portability and Accountability Act (HIPPA) are authorized to disclose to the attorney *ad litem* and shall provide the attorney *ad litem* unobstructed access to all medical records, treatment providers, clinical information and other healthcare information relating to the current mental and physical health of the Disabled Person [See 45 CFR sec.164.512(e)] that the attorney *ad litem* deems necessary for the proper discharge of his/her duties.
  - b. All said physicians, hospitals and other healthcare providers grant said access described in paragraph "6a" of this Order to the attorney *ad litem* without delay;

- c. The attorney *ad litem* and the said physicians, hospitals and other healthcare providers are prohibited from using or disclosing the disabled person's health information for any purpose other than this Guardianship proceeding.
  - d. The attorney *ad litem* shall return to the physician(s), hospital(s), and other healthcare provider(s) or shall destroy all of the health information provided to the attorney *ad litem* by the physician(s), hospital(s), or healthcare provider(s) (including all copies made) at the end of these Guardianship proceedings.
7. At least ten (10) days before the Hearing date, Petitioner must send notice by **certified mail, return receipt requested**, to each next of kin of the alleged disabled person who did **not** file a Waiver of Notice and Consent. Notice must state the time, place and purpose of the Hearing.
8. Petitioner must file at the Register in Chancery Office all **certified receipts** from the notice(s) mailed to the next of kin **no later than the Wednesday before the Hearing date**.

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(Vice) Chancellor or Master



## **NOTE: CONSENT AND WAIVER OF NOTICE**

A Waiver of Notice and Consent is generally brought to the attention of disabled person's spouse, children, parents, and/or sibling (brother/sister).

You as the petitioner, can approach the completion of Consent and Waiver of Notice in one of two different ways. Preferably, the Consent and Waiver of Notice is to be signed by the disabled person's relative/next of kin. If the relative(s) should live out of state or cannot be reached physically, there is an alternative method. You can send the entire petition through the Certified Mail with an attached letter. This letter should contain pertinent information such as the Court date, time, and place of the Final Order hearing. This will ensure that all next of kin have been notified of the prospective guardianship's establishment.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the Matter of:

C.M.#: \_\_\_\_\_

\_\_\_\_\_  
AN ALLEGED DISABLED PERSON

WAIVER OF NOTICE AND CONSENT

I, THE UNDERSIGNED, \_\_\_\_\_,  
name of next of kin to the alleged disabled person  
whose relationship to \_\_\_\_\_  
name of the alleged disabled person hereinafter called the  
"alleged disabled person" is that of \_\_\_\_\_,  
next of kin's relationship to the alleged disabled person hereby waive  
my right to notice of the Hearing upon the Petition of \_\_\_\_\_  
Petitioner's name  
to be appointed Guardian of the alleged disabled person's Person and/or Property and hereby  
consent to \_\_\_\_\_  
Petitioner's name's appointment as Guardian for the alleged disabled  
person's (check all that apply) ☐ Person and/or ☐ Property without further notice.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Next of Kin's Signature

Next of Kin's Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_  
\_\_\_\_\_

SWORN TO AND SUBSCRIBED before me on this date: \_\_\_\_\_

\_\_\_\_\_  
Notary Public or Clerk of the Court

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the Matter of:

C.M.# \_\_\_\_\_

AN ALLEGED DISABLED PERSON

**FINAL ORDER FOR APPOINTMENT OF  
GUARDIAN OF THE PERSON AND/OR PROPERTY**

WHEREAS, a Hearing on the matter above (hereinafter called "the Hearing") was held  
on this date \_\_\_\_\_,

WHEREAS, Petitioner \_\_\_\_\_ is the \_\_\_\_\_  
Petitioner's name relationship to alleged disabled person  
of \_\_\_\_\_ (hereinafter called "the disabled person"), and the disabled  
disabled person's name  
person's next of kin has/have waived notice and consented (agreed) to or has/have received  
notice through certified mail on the appointment of \_\_\_\_\_ as Guardian of the  
Petitioner's name  
Person and/or Property of the disabled person; and

WHEREAS, \_\_\_\_\_, Esquire, the previously appointed attorney  
leave blank  
*ad litem* for the disabled person has been personally served at least ten (10) days before the date  
of the Hearing and has rendered his/her report; and

WHEREAS, the Court having reviewed the Petition and affidavits, considered the medical report, and considered the statements made and evidence presented at the Hearing, finds that \_\_\_\_\_ is a disabled person because he/she is aged, mentally infirmed, and/or physically incapacitated. By reason thereof such disabled person:

disabled person's name

(Check ALL that apply.)

☐ is in unable to properly manage and/or care for his/her Person and consequently, such disabled person without a Guardian is in danger of substantially endangering his/her health or becoming subject to abuse by other persons or becoming the victim of designing persons.

☐ is unable to properly manage and/or care for his/her Property and consequently, such disabled person without a Guardian is in danger of dissipating or losing such property by becoming the victim of designing persons.

NOW THEREFORE, IT IS ORDERED that:

1. \_\_\_\_\_ is hereby appointed: (Check ALL that apply.)

Petitioner's name

☐ Guardian of the Person of \_\_\_\_\_

disabled person's name

☐ Guardian of the Property of \_\_\_\_\_

disabled person's name

2. Before entering upon his/her duties as Guardian pursuant to this Order, \_\_\_\_\_

Petitioner's name

shall execute a bond to be taken in the name of the State of Delaware in the amount of

\$ \_\_\_\_\_ ☐ with ☐ without surety as a condition for the faithful

leave blank

performance of his/her duties as Guardian.

3. \_\_\_\_\_, as Guardian, shall open one or more bank accounts at  
Petitioner's name  
\_\_\_\_\_ and/or its successors AND shall deposit ALL monies of  
bank/institution  
the disabled person in such account(s). The account(s) shall be entitled "COURT OF  
CHANCERY, GUARDIANSHIP ACCOUNT FOR \_\_\_\_\_,  
disabled person's name  
\_\_\_\_\_, GUARDIAN, WITHDRAWALS ONLY BY ORDER  
Guardian's name  
OF THE COURT."
4. The Guardian may withdraw up to \$ \_\_\_\_\_ total per month without  
leave blank  
further notice of the Court. Otherwise, the Guardian may NOT make ANY withdraws  
from the account WITHOUT first having a Court Order to do so.
5. A first inventory is due within 30 days of today's date.
6. The Guardian shall file an accounting of the Guardianship accounts at least once every  
year on the anniversary date of the appointment of the Guardian (the date of this Order)  
and at any other time the Court shall direct as required by the Rules of this Court.
7. The Guardian shall file a status report with the Register In Chancery every year on the  
anniversary date of the appointment of Guardian (the date of this Order) as required by  
the Rules of this Court and at any other time the Court shall direct. The status report  
shall include the current mailing address of both the disabled person and the Guardian,  
and the current medical statement from the attending physician setting forth the current  
medical status of the ward and addressing the need for a continued Guardianship.

8. The Guardian shall, within \_\_\_\_\_ days submit proof to the Register in Chancery that  
leave blank  
the terms of this Order have been complied with and the bank account(s) provided for in  
this Order has/have been opened in accordance with the provisions of this Order.
9. The Guardian is authorized to pay the following costs of these proceedings:
- A. \$ \_\_\_\_\_ to the Register in Chancery.  
leave blank
- B. \$ \_\_\_\_\_ to \_\_\_\_\_, Esquire, for his/her  
leave blank leave blank  
services as the attorney *ad litem* for the disabled person.
10. The Register in Chancery of this Court is appointed agent of the Guardian to accept  
service of process on behalf of the Guardian as to any claim arising out of the Guardianship  
if, by reason of the Guardian's absence from this State, he/she cannot be served.

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Vice) Chancellor or Master